

APPEAL NO. 042011  
FILED SEPTEMBER 21, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 12, 2004. With respect to the disputed issues, the hearing officer determined that the \_\_\_\_\_, compensable injury of appellant (claimant) does not include mental depression and that his correct impairment rating (IR) is 8%, as certified by the Texas Workers' Compensation Commission (Commission)-selected designated doctor. Claimant appeals the determinations regarding extent of injury and the IR. Claimant also asks for a remand so that the designated doctor can identify the objective clinical evidence used to arrive at the 3% impairment found for claimant's erectile dysfunction. Respondent (carrier) responds that claimant inappropriately raises the issue regarding correct impairment for the erectile dysfunction for the first time on appeal. Carrier asserts that the hearing officer's decision should be affirmed.

DECISION

We affirm.

We have reviewed the complained-of determination regarding extent of injury and conclude that the issue involved a fact question for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determination that the compensable injury does not extend to depression is supported by the record and is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Claimant next contends that the hearing officer erred in determining that claimant's IR is 8%, complaining that the IR did not include impairment for depression. However, because we have affirmed the determination that the compensable injury does not include depression, we conclude that there is no error in this regard. Texas Workers' Compensation Commission Appeal No. 010905, decided June 12, 2001. Claimant also complains that the designated doctor did not identify the objective clinical evidence used to arrive at the impairment assigned for claimant's erectile dysfunction. Claimant contends that the designated doctor should have awarded 10% impairment in this regard as this was the impairment found by the treating doctor. The designated doctor stated that whether such dysfunction qualifies as a disability is not within the realm of an examination. The designated doctor was questioned regarding the impairment assigned in this regard and stood by his report. The difference between the impairment found by the treating doctor and the designated doctor is based on a difference in medical opinion. We have reviewed claimant's contentions in this regard and we conclude that no reversible error has been shown. We conclude that the hearing officer did not err in according presumptive weight to the designated doctor's report.

We affirm the hearing officer's decision and order.

According to information provided by carrier, the true corporate name of the insurance carrier is **THE GRAY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBERT L. WALLACE  
1717 EAST LOOP, SUITE 333  
HOUSTON, TEXAS 77029.**

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Judy L. S. Barnes  
Appeals Judge

CONCUR:

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Veronica L. Ruberto  
Appeals Judge

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Edward Vilano  
Appeals Judge